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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 4152 OF 2004

PETITIONERS

1 Anupam Sahakari Griha Nirman Samiti Maryadit, a registered Cooperative Housing Society, having its office at 1-39, Anupam Nagar, Raipur through its Director Shrimati Anjali Devi, W/o. Shri Rakesh Vaishnav, aged 41 years resident of Baijnathpara, Raipur.

2. Shrimati Anjali Devi, W/o. Shri Rakesh Vaishnav, aged 41 years, resident of Baijnath para, Raipur.

3. Khalil Ahmed Anshari,Member/Ex-PresidentS/o Shri S.M.I. Ansari
Aged about 64 years, R/o House of Kamal Sharma Country Club, Kachana Road, Shankar Nagar, Raipur (C.G.)

4 Smt. Shila Soni, Member/Ex-Director
W/o. Shri R.B. Soni, aged about 40 years, R/o Kundarapara, Raipur Tahsil and District Raipur (C.G.)

5 Smt. Asha Tripathi, Member/Ex-Director
W/o Shri J.L. Tripathi, aged about 32 years, R/o Shankar Nagar, Raipur Tahsil and District Raipur (C.G.)

6 Shri Mohammad Aslam, Member/Ex-Director S/o. Mohd. Qayuum, aged about 34 years, R/o Sanjay Nagar, Raipur Tah. And District Raipur (C.G.)

7 Shri Somdutta Sitha, Member/Ex-Director, S/o Shri I.D. Seetha, Aged about 62 years, R/o. Bal Ashram, Jail Road, Raipur Tah & Dist. Raipur (C.G.)

8 Shri Firoz Hussain, Member/Ex-Director S/o Shri Kurban Hussain, Aged about 64 years, C/o Mohd. Ali Rajab Ali, Baijnathpara, Raipur Tahsil and District Raipur (C.G.)

9 Shri Vidhan Chandra Mishra, Member/Ex-Director, S/o Shri C.P. Mishra, Aged about 55 years, R/o Civil Lines, Raipur Tahsil and District Raipur (C.G.)

10 Shri Sharad Shukla, Member/Ex-Director, S/o. Shri R.K. Shukla, Aged about 38 years, R/o. Ganjpara, Banstal, Raipur Tah. And District Raipur (C.G.)

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11 Shri Mohd. Abdul Kalam, Member/Ex-Director, S/o Shri Mohd. Abdul Salam, Aged about 64 years, R/o. Near Shining Tailors Raja Talab, Raipur Tahsil and District Raipur (C.G.)

12 Shri Anil Dhruwa, Member/Ex-Director, S/o Shri Ganesh Singh Dhruv, Aged about 38 years, R/o. Mohadapara, Raipur Tah. And District Raipur (C.G.)

Vs.

RESPONDENTS

1. The Deputy Registrar of Cooperative Societies Raipur
2. The Registrar of Co-operative Societies, Raipur.
3. State of Chhattisgarh, through the Secretary, Department of Co-operative Societies, Mantralaya, DKH Building, Raipur.
4. J.P. Mishra, Cooperative Inspector, Department of Cooperative Soceties, Raipur, Dist. Raipur.
5. Shri L L Rayast, Deputy Registrar, Cooperative Societies, Near District Cooperative Central Bank, G.E. Road, Raipur.

Present: Mr. Manindra Shrivastava, learned Sr. Advocate with Mr. R. Pradhan for the petitioners.
Mr. Yashwant Singh, learned G.A for the State/respondents 1,2 and 3.
Mr. N.K. Agrawal, learned Sr. Advocate with Mr. Deepak Gupta, learned counsel for respondent No.5.

ORAL ORDER
(Passed on 13th January, 2006)

In this writ petition, the order made by the Registrar, Cooperative Societies under Section 53 of the CG Cooperative Societies Act 1960 (for short 'the Act') superseding the committee of management of Anupam Shakari Griha Nirman Samiti Maryadit, the petitioner No. 1herein, has been challenged. The impugned order is appealable order under Section 77 of the Act. Amongst other grounds, basic ground of attack is that the impugned order has been passed by the Registrar of the Cooperative

Society in utter violation of principles of natural justice and without notice. This plea taken by the petitioner is squarely denied by the respondent-authorities by filing reply and as per the respondents, before passing the impugned order notice was sought to be served on all the members of the committee of the management and five of them were not available for service and therefore, they took steps of serving the notice by sub-service. This specific averment made in the reply of the respondent-authorities is again squarely denied by the petitioners by filing rejoinder. What emerges from the pleadings of the parties is a factual controversy with regard to very issuance of notice and service of notice on the petitioners. Be that as it may, it is brought to my notice that in the absence of stay granted by this Court, the Administrator appointed by the Registrar has been in the management of the petitioner society for the last 21 months. Looking from that angle also, there is no warrant for this Court to undertake resolution of disputed facts, particularly, with regard to service of notice on the affected interest before passing the impugned order. Apart from resolving the issue relating to merit of the matter, it is needless to state that the remedy available under Section 77 of the Act by way of appeal is more comprehensive and effective than the remedy that may be granted under Article 226 of the Constitution. The appellate authority could go into the questions of fact as well as questions of law. In that view of the matter, I dismiss the writ petition reserving liberty to the petitioners to work out their legal remedies by way of appeal under Section 77 of the Act. All the contentions raised by the parties in their respective pleadings filed in this case are left open to be agitated before the appellate authority. If the appeal is preferred by the petitioners within one month from today under Section 77 of the Act, the appellate authority

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shall hear and dispose of the appeal on merit without reference to the limitation. No costs.

Sd/-
Chief Justice